

Oversight Division

Committee On Legislative Research

SUNSET REVIEW

Review of the
Model School Wellness Program
Section 167.229 RSMo

Sunset Review

Model School Wellness Program Section 167.229 RSMo

*Prepared for the Committee on Legislative Research
by the Oversight Division*

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Committee on Legislative Research

Oversight Subcommittee

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Members of the General Assembly:

The Joint Committee on Legislative Research is required by Section 23.259(1)(2) to conduct a performance evaluation of the Model School Wellness Program, Section 167.229 RSMo to determine and evaluate program performance in accordance with program objectives, responsibilities, and duties as set forth by statute or regulation.

The report includes Oversight's comments on (1) the sunset, continuation, or reorganization of the program, and on the need for the performance of the functions of the program; (2) the duplication of program functions; (3) the appropriation levels for each program for which sunset or reorganization is recommended; and (4) drafts of legislation necessary to carry out the committee's recommendations pursuant to (1) and (2) above.

We hope this information is helpful and can be used in a constructive manner for the betterment of the state program to which it relates. You may request a copy of the report from the Oversight Division by calling 751-4143.

Respectfully,

Senator Tom Dempsey
Chairman

EXECUTIVE SUMMARY

During the 2005 legislative session, Conference Committee Substitute for Senate Substitute for House Committee Substitute #2 for HB 568 was passed and signed into law. The legislation established in Section 167.229 RSMo, the Model School Wellness Program, to be administered by the Department of Elementary and Secondary Education (DESE). The intent of the program was to have selected school districts establish school-based pilot programs that focus on encouraging students to establish and maintain healthy lifestyles.

The program was meant to focus on elementary age children using multimedia and web based resources for teachers, parents, and students. Training and support of teachers and staff were included in the grant for the 05-06 school year. The statute also provided that an evaluation of the effectiveness of the model school wellness program be completed following the 2005-2006 school year and the attitudes related to nutrition, physical activity, or tobacco use be examined. The program was designed to meet the state and national standards established by the No Child Left Behind Act.

Federal funding under the Child Nutrition and WIC Reauthorization grant was established as the only funding source for the program. However, federal law prohibited those funds to be used for this purpose as “Wellness Programs” are considered a discretionary expense under federal law.

The Child Nutrition and WIC Reauthorization grant is an entitlement program and funds received by DESE from this grant are used as a reimbursement for the National School Lunch Program. Congress must specifically appropriate funds for discretionary use such as wellness programs. The Department of Elementary and Secondary Education did receive during the 2005-2006 school a small grant for local wellness training but the amount of the grant was limited. The scope of the Model School Wellness as created in Section 167.229 RSMo was much greater and different in purpose from the local wellness grant provided to local school districts during the same time period.

Since federal funding did not become available and funding authority was not authorized by the General Assembly, the Model School Wellness pilot program did not occur. It is recommended that this one year pilot program established in Section 167.229 RSMo be permitted to sunset effective August 28, 2011.

Chapter 1

Purpose

The General Assembly has provided by law that the Joint Committee on Legislative Research will conduct a performance evaluation of a program subject to the Missouri Sunset Act. The committee shall consider the criteria as listed in Section 23.268 RSMo. in determining whether a public need exists for the continuation of a program, or for the performance of the functions of the program. A sunset review is the regular assessment of the continuing need for a state program to exist. A sunset review answers the basic questions of what has happened to this program since its inception and does the State of Missouri continue to “need” the services provided by the program.

The Joint Committee on Legislative Research directed the Oversight Division to conduct a Sunset Review of the Department of Elementary and Secondary Education’s (DESE) Model School Wellness Program as affirmed by Section 167.229 RSMo. The State of Missouri’s support of the program was established during the 2005 legislative session when Conference Committee Substitute for Senate Substitute, for House Committee Substitute #2 for HB 568, was Truly Agreed to and Finally Passed and signed by the Governor.

Oversight’s review addressed, but was not limited to the following:

1. Interviewing personnel from the Department of Elementary and Secondary Education with knowledge of wellness and nutrition programs for local school districts.
2. Research and review of previous and current local wellness efforts.
3. Review of state law as related to the Model School Wellness Program.
4. Review of the components of a wellness policy as established by the United States Department of Agriculture (USDA).
5. Inquiries of the USDA related to the Child Nutrition and WIC Reauthorization Grant.

Scope

The Oversight Division researched the laws regarding Model School Wellness from 2005 through 2010 as well as the USDA components of a wellness policy. Information was gathered on the department’s use of Child Nutrition and WIC Reauthorization Grant funds and the purpose of those funds. The review focused on previous and current school wellness policies as implemented by the USDA and DESE. The original fiscal note and a review of appropriations to the Department of Elementary and Secondary Education over the specified program period were examined for inclusion in the report.

Methodology

The Oversight Division obtained information on the Model School Wellness Program through a thorough review of statutes, letter and e-mail correspondence with the Department of Elementary and Secondary Education's School Food Services Section, and interviews with personnel from DESE. Oversight's evaluation focused on understanding the intent of Section 167.229 RSMo, what efforts were made to meet the statutory requirement in Section 167.229 RSMo, what are school wellness programs, what other wellness efforts have been implemented by USDA and DESE, and the components of the school wellness policy here in Missouri. The program was designed as a one year pilot program established for the 2005 - 2006 school year. The sunset review was designed to determine if a need for this statute continues to exist.

Background

During the 2005 legislative session, Conference Committee Substitute for Senate Substitute for for House Committee Substitute #2 for HB 568, was Truly Agreed to and Finally Passed and signed by the Governor. The legislation established in Section 167.229 RSMo, the "Model School Wellness Program" to be administered by the Department of Elementary and Secondary Education. The intent of the program was to have selected school districts establish school-based pilot programs that focus on encouraging students to establish and maintain healthy lifestyles.

The legislation was passed in anticipation of federal money available to states to assist local school districts in establishing a local wellness program. The bill established any monies provided by the federal government, in compliance with federal law, and would establish a pilot program in local school districts to participate in the Model School Wellness program. At the time of passage it was estimated by DESE, that funds would potentially be available for 40-50 competitive contracts throughout Missouri. The bill provided school districts would apply for a one-year grant for the 2005-2006 school year. The program was to consist of three general components:

1. Tobacco use prevention education
2. Promotion of balanced dietary patterns and physical activity to prevent becoming overweight or obese
3. Discussion of the serious and chronic medical conditions that are associated with being overweight

The program was to be multi-disciplinary, addressing academic standards in language arts, math, and health. It was to be focused on elementary age children using multimedia and web based resources for teachers, parents, and students. Training and support of teachers and staff were included in the grant for the 05-06 school year. The statute also provided that an evaluation of the effectiveness of the model school wellness program be completed following the 2005-2006 school year and the attitudes related to nutrition, physical activity, or tobacco use be examined. The program was to be designed to meet the state and national standards established by the No Child Left Behind Act, the Healthy People 2010 Leading Health Indicators as compiled by the National Center for Health Statistics, and the Produce for Better Health Foundation's "5 A Day, The Color Way" program.

Section 167.229 RSMo provides funding for the Model School Wellness Program, "any monies appropriated, other than general revenue, by the General Assembly, shall be from the Child Nutrition and WIC Reauthorization federal grant money." No other funding source was provided in the statute. Funding authority was not provided by the General Assembly to support this program. DESE estimated at the time of passage, a program of this scope would have a cost of \$50,000 per contract. With an estimated 40-50 contracts available, the estimated cost, according to the fiscal note, was \$2-2.5 million in annual program costs. In addition, the fiscal note indicated the Child Nutrition and WIC Reauthorization federal grant could not be used for the programs purpose as it was viewed as a discretionary expense under the Child Nutrition and WIC Reauthorization Grant. To further clarify, USDA was contacted and provided a statement regarding the Child Nutrition and WIC Reauthorization Grant.

"Every 5 years, Congress reviews Child Nutrition Programs, including the National School Lunch Program (NSLP), to make needed improvements. Although the NSLP is permanently authorized, reauthorization does allow for an opportunity to fund key provisions and to ensure that programs are extended through the Congressional process. Funds for entitlement programs, i.e., to pay for reimbursement of school meals under the NSLP are mandatory and funded through federal appropriations each year. Other provisions that are discretionary may or may not be funded in the final appropriation."

The Model School Wellness program is considered a discretionary expense, meaning Congress may choose to include additional funding in the grant for discretionary programs each school year or they may choose not to do so. The entitlement funds for NSLP were the only funds provided to DESE at the time HB 568 was passed.

In discussions with DESE personnel it was anticipated, at that time, discretionary funds would become available through the Child Nutrition and WIC Reauthorization federal grant. Funding was later provided from Congress after the passage of HB 568. However, the funding provided to each state was far less than needed to fully implement the Model School Wellness Program as created in Section 167.229 RSMo.

The Child Nutrition and WIC Reauthorization (CN Reauthorization) Act of 2004, Public Law 108-265, was signed into law on June 30, 2004. The legislation allowed for a number of new provisions. A key provision required that every school district participating in the National School Lunch Program adopt local school wellness policies to address healthy eating and physical activity by the start of School Year 2006. To assist in this effort, the 2004 CN Reauthorization provided \$4 million to be used by USDA to carry out the technical assistance and best practices for implementing local wellness policies. Congress passed the Agriculture Appropriation Act in 2006 which permitted the Food and Nutrition Service (FNS) to use \$2 million of that funding for formula-based noncompetitive grants for Child Nutrition State Agencies. These one-time funds were intended for State Agencies to provide training and technical assistance to school districts to adopt and implement local wellness policies and were not to be distributed to local school districts directly.

The Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108-265) did not appropriate funds specifically for wellness implementation. However, it mandated Local Education Agencies (LEAs) participating in federal school meal programs to have a school wellness policy (Appendix 1) in place by the beginning of the 2006-2007 school year.

During the 2005-2006 school year, the Department of Elementary and Secondary Education (DESE) – School Food Services (SFS) in collaboration with the Missouri School Boards' Association, the Department of Health and Senior services (DHSS), University of Missouri Extension, Missouri School Nutrition Association, and other organizations including the Dairy Council and the American Heart Association developed a model school wellness policy. The Missouri Eat Smart Guidelines were incorporated into the policy as a tool.

In May 2006, DESE – School Food Services (SFS), received a Local Wellness Policy Grant in the amount of \$64,017 from the USDA. DESE and DHSS entered into an Interagency Agreement to administer the grant. The grant funding was used to assist LEAs with the development and implementation of local wellness policies. The federal funding that was anticipated, in regards to the Model School Wellness Program, in Section 167.229 RSMo did not occur. Therefore the department could not proceed as directed by state statute in fully implementing the Model School Wellness Program as no other funding authority was provided

A summary of the Local Wellness Policy Grant activities can be found in (Appendix 2)

Chapter 2

Comments

The Model School Wellness program was created in the event Congress would provide funding to the state of Missouri for the implementation of the program. However, what ultimately occurred was a much smaller local wellness grant that was primarily used for training teachers and food service personnel. The scope of the Model School Wellness program as created by Section 167.229 RSMo was much larger than the one-time Local Wellness Policy Grant as provided by the Child Nutrition and WIC Reauthorization Act of 2004 and funded with the passing of the FY06 Agriculture Appropriation Act and then received by the Department of Elementary and Secondary Education. The funds provided could not meet the requirements established in the state statute.

Since funding authority was not provided to the department and no other state or federal funding source was provided in the statute to implement the program; and the USDA was not authorized by Congress to distribute more than \$2 million nationwide in local wellness grants to state nutrition agencies; the Department of Elementary and Secondary Education could not comply with the requirements set forth in Section 167.229 RSMo.

Recommendation

After reviewing the current statute with Legislative Research, it was found that the current statute created a 1 year program over the 2005-2006 school year with a 6 year sunset provision. When the legislation passed in 2005 it established a 1 year pilot program for the 2005-2006 school year. Since nothing occurred related to the Model School Wellness Program and no provision was placed in the statute for what would occur with the program after the 2005-2006 school year, the program established in Section 167.229 RSMo, effectively ended after the 2005-2006 school year. The enabling legislation lacked the necessary reporting requirements and safeguards to ensure an update and what, if any, changes should occur after the pilot program ended and the review completed. No mechanism was provided for updates on what action Congress and the USDA had taken related to school nutrition wellness policy and funding through the Child Nutrition and WIC Reauthorization Grant.

The program did not receive specific funding authority from the General Assembly. In addition, the program was considered discretionary and at that time the USDA, as the administering agency, did not allow Child Nutrition and WIC Reauthorization funds to be used for this purpose. For these reasons DESE was unable to implement the Model School Wellness Program as established by 167.229 RSMo. It is recommended that a vote for no further action be taken and allow Section 167.229 RSMo to sunset.

Appendix 1: USDA Required Components of a Wellness Policy

As required by federal law, a local wellness policy, at a minimum, shall include:

Goals for *nutrition education, physical activity and other school-based activities* that are designed to promote student wellness in a manner that the local educational agency determines is appropriate;

Nutrition guidelines selected by the local educational agency for all foods available on each school campus under the local educational agency during the school day with the objectives of promoting student health and reducing childhood obesity;

Guidelines for reimbursable school meals, which are no less restrictive than regulations and guidance issued by the Secretary of Agriculture

A plan for *measuring implementation* of the local wellness policy, including designation of 1 or more persons within the local educational agency or at each school, as appropriate, charged with operational responsibility for ensuring that each school fulfills the district's local wellness policy;

Community involvement, including parents, students, and representatives of the school food authority, the school board, school administrators, and the public in the development of the school wellness policy.

Source: USDA

Appendix 2: Summary of Local Wellness Grant Activities

- A local wellness policy train the trainer session was conducted in April 2006. The purpose was to prepare DESE-SFS staff, University Extension Specialists and local public health agency health educators to conduct regional trainings to assist LEAs with developing local wellness policies. Six regional trainings were conducted.
- A local wellness policy survey was distributed via email to LEAs and the results were compiled, reported, and incorporated into the second training.
- A second train the trainer session was conducted in April 2007. Local success stories and a focus on providing LEAs training and technical assistance for implementing and evaluating their local wellness policies were the areas of concentration. Five regional trainings were conducted.
- Mini-grants were available to LEAs, up to \$5000 each. Eight local wellness policy mini grants were awarded. The Invitation for Proposals (IFP) for public LEAs and Invitation for Bids (IFB) for non-public LEAs are attached. Below are the school districts that received a grant and a brief description of grant activities. All below also had a school wellness policy in place and worked on implementing. (The invoiced amounts were in a file, I am trying to check if there were more?)

Sedalia: (Awarded up to \$4,914.85, invoiced for \$3,345.45) A Healthy Snack Workshop was conducted and students researched healthy snacks for young children. A Healthy Tips handout including physical activity and good nutrition for family meals was made. Nutrition education was provided in grades 2 – 5 to increase consumption of fruits and vegetables. Each school received a complete set of realistic food models, posters and Team Nutrition Curriculum. University Extension staff taught nutrition education lessons.

- Lexington RV: (Awarded up to \$5,000, invoiced for \$2,497.40) Utilized nutrition education resources for 4th grade nutrition education classes and a Nutrition Fair at the PTO meeting.
- Lafayette C-1: (Awarded up to \$2382.61, invoiced for \$1,315.66) Purchased exercise and nutrition resources to increase the number of physical activity and/or nutrition education activities in the school targeting 3rd – 5th graders.
- Hickman Mills: (Awarded up to \$5,000, invoiced for \$3,691.35) Implemented Whiz, Zip & Zap It program utilizing Teen Health Mentors to be health role models for younger students. Incorporated hands on nutrition education programs for 4 & 5th grade students with healthy snack making and tasting activities.
- North Harris R-III: (Awarded up to \$5,000, invoiced for \$773.01) Utilization of nutrition education and physical activity resources for grades K -5. For example

– taught students the Pyramid for kids food groups and activity book – Fitness for Fun, promotion of 5 a day nutrition plan and Food Power Adventure- a walk through exhibit designed to involve students in learning skills and choices for a healthy lifestyle.

- Kennett 39: (Awarded up to \$3,532.95, invoiced for \$3,408.80) Ordered resource materials for nutrition education classes for 4th and 6th graders.
- Columbia 93: (Awarded \$4,975, invoiced for \$1994.78) Nutrition materials provided to 4th graders. Classrooms charted number of fruits and vegetables consumed at home. Students participated in an art/writing activity in classroom with topic “Fruits and Vegetables Make a Better Me.”
- Smithton (Awarded \$4,160.00, but dropped out)

Source: Missouri Department of Elementary and Secondary Education